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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.3346 of 2012 (O&M)

Date of decision:25.04.2016

National Insurance Company Limited

... Appellant

versus

Gulshan Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Ravinder Arora, Advocate,
and Mr. Neeraj Khanna, Advocate,
for the appellant.

Mr. Arun Singal, Advocate,
for respondents 3 and 4.

K.Kannan, J. (Oral)

1. The Insurance Company is in appeal challenging the indemnity provided to the driver and owner for alleged violation of terms of policy. The violation complained of was that the driving licence seized by the police after the accident was said to have been issued by the DTO office at Mathura and it was found to be fake through a witness of the office from Mathura who said that the particulars contained in the driving licence were not available in the original records. The driver produced another driving licence at the trial which was also got verified through examination of the Clerk from the office at Farrukhabad. The witness admitted that the name

of the driver was seen entered in the original books during the relevant period but he gave evidence of the discrepancy about the licence fee paid and the amount that was said to have been received against his name. A discrepancy of the actual fee payable and the amount received would have different consequences of an action against a Clerk and cannot punish a person who holds a driving licence and entered in the original records as such.

2. The learned counsel for the insurer states that there could be no two driving licences. While I admit that there could be no two driving licences genuinely issued, there could be no logic in an argument that a fake licence obtained by a person will only prompt him to make several fake licences and cannot obtain a genuine licence. If a licence produced from Farrukhabad was entered in the records, he shall have the benefit of the said driving licence for being considered as genuine, no matter that yet another driving licence said to have been issued from Mathura and seized by the police was found to be fake. The indemnity provided to the owner and driver was perfectly justified under the circumstances.

3. The award of the Tribunal is confirmed and the appeal is dismissed.

(K.KANNAN)
JUDGE

25.04.2016
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